APPENDIX — AFFIRMATION OF JULIA SUMMERS IN SUPPORT OF BENICORP INSURANCE COMPANY'S BRIEF IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT DATED OCTOBER 15, 2002

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

Civil Action No. 5:01-CV-508-1

EDNA L. WILLIAMS,

Plaintiff,

v.

BENICORP INSURANCE COMPANY, BOSWORTH & ASSOCIATES, INC., and JOHN DOE and JOHN DOE CORPORATION,

Defendants.

AFFIRMATION OF JULIA SUMMERS IN SUPPORT OF BENICORP INSURANCE COMPANY'S BRIEF IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

Julia Summers, submits this Affirmation in support of Defendant Benicorp Insurance Company's ("Benicorp") Brief in Support of Motion for Summary Judgment, and first being duly sworn upon her oath, states as follows:

1. I am over the age of 21 and am competent to testify to the matters asserted herein. I have personal knowledge of the facts set forth herein.

2. Benicorp is an insurance company licensed to transact business in twenty-eight (28) states (including the state of Georgia). Benicorp currently offers for sale group major medical indemnity insurance coverage to employer–sponsored groups in nine (9) states.

3. Since July 29, 1996, I have served as the Director of Compliance for Benicorp. Included within my responsibilities is to ensure that Benicorp is compliant with federal and state laws and to interpret and analyze the law to assist management and staff. As part of my responsibilities and duties, I am familiar with and frequently make use of Benicorp's business records, including those records attached to this Affirmation.

4. In connection with the indemnity insurance coverage, Benicorp has no arrangements in Georgia with any selected providers to furnish or deliver healthcare services. Benicorp has no contracts with healthcare providers in the state of Georgia. Benicorp does not select healthcare providers for its insureds in the state of Georgia. Benicorp does not have explicit standards (or even any standards) in Georgia for the selection of participating providers.

5. Benicorp is not and has never operated as a health maintenance organization. Benicorp does not act in any capacity as a "gatekeeper" whereby Benicorp could make determinations regarding an insured's access to a particular healthcare provider or a particular medical procedure or treatment.

6. Benicorp does not under maintain an exclusive provider arrangement in connection with its indemnity coverage issued in the state of Georgia.

7. Benicorp is not, and has never been, certified as a managed care entity as that term is defined at Georgia statute §33-20A-4. Benicorp is not, and never has been, subject to the reporting requirements for managed care entities contained at Georgia regulation 120-2-8-.05.

8. Benicorp sold and provided to Judd Publishing Company, Inc. ("Judd Publishing") indemnity coverage for medical and life insurance coverage for its employees, under Group No. 97244044 (the "Judd Publishing Plan"). A true and accurate copy of the Policy reflecting such coverage is attached hereto under **Tab A**. Under the Judd Publishing Plan, Judd Publishing employees and their dependants, including Mr. Williams, can receive medical services from any medical provider they desire without financial incentive or penalty. Indeed, employees and dependents of Judd Publishing under the Judd Publishing Plan could receive medical treatment and care from health care providers throughout the United States.

9. As part of the Judd Publishing Plan, Benicorp provided a certificate of insurance to James F. Williams, an employee of Judd Publishing, for coverage of life and medical insurance benefits. The written materials that were provided to Mr. Williams include the Certificate Book, a Summary of Coverage, and the Group Enrollment Form completed by Mr. Williams. A true and accurate copy of the Certificate

Book with Summary of Coverage and Group Enrollment Form provided to Mr. Williams is attached hereto under **Tab B**.

10. The Certificate Book, Summary of Coverage and Group Enrollment Form identify Mr. Williams as the beneficiary/insured, identify the medical and life insurance benefits available to Mr. Williams, and identify the procedures for obtaining the medical and life insurance benefits.

11. The Group Enrollment Form submitted by Mr. Williams shows that Mr. Williams agreed to be subject to all the terms of the Policy, and that any conflicts would be resolved solely by reference to the Policy. A separate copy of the Group Enrollment Form completed by Mr. Williams is attached hereto under **Tab C**.

12. The Employer Agreement & Application submitted by Judd Publishing to Benicorp shows that the intended source of financing for the Judd Publishing Plan is the employer's 50% premium contribution. A true and accurate copy of the Employer Agreement & Application is attached hereto under **Tab D**.

13. As indicated in the Employer Agreement & Application, Judd Publishing selected the type of coverage available to its employees and determined who would be eligible for group health insurance in its Plan. (*See* **Tab D**.)

14. At all pertinent times, Judd Publishing made all premium payments to Benicorp for the Judd Publishing Plan.

15. At no time was Benicorp the administrator of the Judd Publishing Plan. Benicorp did not create nor dictate the terms of the Summary Plan Description. Furthermore, Benicorp did not participate in the annual reporting with respect to the Judd Publishing Plan.

FURTHER AFFIANT SAITH NOT.

I DECLARE UNDER THE PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Date: October 15, 2002

s/ Julia Summers
Julia Summers

EMPLOYER PARTICIPATION AGREEMENT

The Employer named below hereby appl[illegible] become a participant in the Benicorp Insurance Company Employee Benefits Trust (hereafter referred to as the "Trust"). In addition, the Employer also applies for Group Insurance benefits provided by the Policy [illegible]ed to the Trust and underwritten by Benicorp Insurance Company. The information provided by the Employer and his/her employees will determine eligibility for coverage under the Trust.

GENERAL EMPLOYER INFORMATION

Name of Company: JUDD PUBLISHING COMPANY, INC.

Street Address: 4853 EISENHOWER PKWY

P.O. Box No: ——— Phone: 912 - 474 - 3900

City/State: MACON, GA Zip: 31206 County: BIBB

Name of President: EDWIN F. JUDD SR.

Name of Contact Person: JOYCE JUDD

Nature of Business: PUBLISHING & PRINTING

Total number of employees: 10

Number of full-time employees 10 Number of full-time employees enrolling for medical coverage 9

What is the employer contribution? Employee 50 % _____ Dependent ~~0~~ % _____

REQUESTED EMPLOYER EFFECTIVE DATE: 9 / 1 / 97

The applicant has deposited $ 214231 for the requested coverage illustrated in Benicorp proposal # _____. This deposit is not an insurance premium. If Benicorp Insurance Company (Company) approves this application, it shall determine the exact amount of premium due. If approved, the Applicant agrees to pay any excess of the premium due over the deposit after notice of final approval. **No coverage is in force until written notice of approval is received from the Underwriting Department of the Company. Any proposed insured who is disabled on the group's effective date will not have coverage until they have complied with the Deferred Effective Date Provision of the Policy.**

NOTE: This application must predate the requested employer effective date and be received, with a check for the first month's premium, by the Company prior to the requested effective date.

REQUESTED EMPLOYEE EFFECTIVE DATE

The effective date for employees and dependents already covered by a group medical plan and not currently disabled will be the same as the Employer effective date. New entrants can make application for coverage following completion of the waiting period.

*Some industries require longer waiting periods. Please inquire as to the appropriate waiting period for your group.

The waiting period (period of continuous employment) before employees can make application for coverage is:

☐ 30 days ☐ 60 days ☒ 90 days ☐ 180 days

ENROLLMENT CERTIFICATION:

If the employee contributes toward the cost of medical coverage, the following participation must be met and MAINTAINED:

- Firms with 3 through 5 eligible employees must maintain 100% participation of all eligible employees.
- Firms with 6 through 9 eligible employees must maintain 100% participation of all elibible employees minus one.
- Firms with 10 through 49 eligible employees must maintain 75% participation of all eligible employees.
- Eligible is defined as "those employees who meet all the Eligibility Requirements (including working at least 30 hours per week on a monthly basis), and are not covered under another group insurance plan."

When the Employer pays all of the employee's premium, 100% of employees not covered under an HMO or governmental medical plan must participate for medical care. This rule also applies to dependents when the employer pays all of the dependents' premium.

In any event, participation requirements are not met if 40% or more of the full-time employees waive medical coverage for any reason.

NOTE: Groups who fail to maintain the participation requirements will automatically be terminated.

Maximum percentage of employees age 50 or older enrolling for medical coverage cannot exceed 50%.

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